

98-031

FILED  
KS. DIST. COURT  
3rd DISTRICT  
OCT 22 10 12 AM '98  
TOPEKA, KANSAS

Kristy L. Hiebert, #14716  
Assistant Attorney General  
Office of the Attorney General  
301 W. 10th St.  
Topeka, Kansas 66612-1597  
(785) 296-3751

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 1

STATE OF KANSAS, *ex rel.*  
CARLA J. STOVALL, Attorney General,

Plaintiff,

vs.

ROBERT WILSON LOVELL,

Defendant.

Case No. 98 CV 967

**JOURNAL ENTRY OF DEFAULT JUDGMENT**

NOW ON THIS 24th day of <sup>September</sup> ~~October~~, 1998, the Plaintiff's Petition for Civil Enforcement of Agency Subpoena comes before the court for hearing, the Honorable Jan W. Leuenberger presiding. The State of Kansas *ex rel.* Carla J. Stovall, Attorney General, appears by and through Kristy L. Hiebert, Assistant Attorney General. The defendant, Robert Wilson Lovell, does not appear.

WHEREUPON, Plaintiff filed a Petition for Civil Enforcement of Agency Subpoena on July 15, 1998, and defendant has failed to respond to said petition. After hearing testimony and being presented with evidence in this matter, the Court finds and concludes as follows:

1. Upon information and belief that Defendant had engaged in, was engaging in or was about to engage in an act or practice that violates the Kansas Consumer Protection Act,

Assistant Attorney General James J. Welch, issued a subpoena duces tecum for evidence and matter by certified mail to: Robert Lovell Wilson, 1627 Oak, Carthage MO, 64836, with a certificate of mailing date of May 14, 1998.

2. Robert Lovell signed the return receipt acknowledging receipt of the subpoena duces tecum on May 20, 1998.

3. The subpoena required Robert Wilson Lovell to appear before the Assistant Attorney General on May 28, 1998 at the Attorney General's Office in Topeka, Kansas.

4. Mr. Lovell failed and refused to appear and to comply with the subpoena.

5. On May 29, 1998, Assistant Attorney General, James J. Welch, sent a letter to Robert Lovell at 1627 Oak, Carthage, MO 64836, notifying him that he had failed to comply with the subpoena and that a petition seeking enforcement of the subpoena would be filed in District Court if he did not comply by June 12, 1998.

6. On June 12, 1998, Mr. Lovell again failed and refused to appear and to comply with the subpoena.

7. The Court takes judicial notice of the return receipt showing Mr. Lovell's acceptance of the subpoena and the May 29, 1998, letter sent by James J. Welch, which documents were attached to Plaintiff's Petition for Civil Enforcement of Agency Subpoena filed with the Clerk of the Shawnee County District Court on July 15, 1998.

8. On July 15, 1998, Plaintiff filed a Petition for Civil Enforcement of Agency Subpoena which was served by certified mail to Robert Wilson Lovell, 1627 Oak, Carthage, MO 64836. The return receipt acknowledging receipt of the Petition was signed by a Marlyn Johnston at that address on July 23, 1998.

9. The Court takes judicial notice of the Return of Service filed in this matter on July 31, 1998, certifying that Amy Elliott, Special Process Server, served Robert Lovell with the Petition and Out of State Summons by certified mail on July 21, 1998.

10. The Court's Administrative Assistant served Robert Wilson Lovell with Notice of

this hearing on September 8, 1998, by United States mail.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Petition for Civil Enforcement of Agency Subpoena should be and is hereby granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

- a. Defendant produce the documents and provide truthful testimony commanded by the subpoena within five days of service of this Journal Entry;
- b. Defendant is enjoined from destroying, disposing of, or otherwise concealing the evidence commanded by the subpoena;
- c. Defendant is enjoined, pursuant to K.S.A. 50-631(e)(1), from the sale or advertisement of any "property" or "services" in the State of Kansas as defined in K.S.A. 50-624; and
- d. Defendant shall pay all costs.

IT IS SO ORDERED.

*/s/ Hon. Jan W. Leuenberger*  
\_\_\_\_\_  
DISTRICT COURT JUDGE  
HONORABLE JAN W. LEUENBERGER

Submitted by:

  
\_\_\_\_\_  
Kristy L. Hiebert, #14716  
Assistant Attorney General  
301 W. 10th St.  
Topeka, Kansas 66612-1597  
(785) 296-3751

Attorney for Plaintiff

O:\HIEBERTK\PUBLIC\FORMS\VEDEF.JUD